

SENATE BILL 317

By Henry

AN ACT to amend Tennessee Code Annotated, Title 66, Chapter 24, relative to the registration and recording of documents and electronic records in the office of county register, and to enact the Uniform Real Property Electronic Recording Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-24-101(d)(1), is amended by inserting the word "paper" before the word "copy" wherever it appears, and by deleting the last sentence in its entirety.

SECTION 2. Tennessee Code Annotated, Section 66-24-101, is amended by adding the following as a new subsection thereto:

(g)

(1) Any county register who receives electronic records pursuant to the Uniform Electronic Transactions Act, codified in title 47, chapter 10, may register a document that is in an electronic form if the document is otherwise eligible for registration. Notwithstanding any other provision of law to the contrary, in addition to electronic records executed pursuant to the Uniform Electronic Transactions Act, a document shall be considered in electronic form when the electronic document is created by making an electronic duplicate of an original paper document that is eligible for registration.

(2) All electronic documents eligible for registration pursuant to this subsection are validly registered when recorded by the county register. Electronic documents registered by county registers prior to the effective date of this act shall be considered validly registered.

(3) No county register shall be required to accept a document electronically.

SECTION 3. Tennessee Code Annotated, Title 66, Chapter 24, is amended by designating the current sections as Part I and by adding the following as Part 2 thereto:

Section 66-24-201. This part shall be known and may be cited as the "Uniform Real Property Electronic Recording Act".

Section 66-24-202. As used in this part, unless the context otherwise requires:

(1) "Document" means information that is:

(A) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) Eligible to be recorded in the land records maintained by the county register;

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(3) "Electronic document" means a document that is received by the county register in an electronic form;

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document;

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity; and

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section 66-24-203.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement shall be satisfied by an electronic document that complies with this part.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement shall be satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath shall be satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(d)

(1) A county register may receive for registration any electronic document that is created by making an electronic duplicate of an original paper document that is eligible for registration.

(2) All recordings of electronic documents eligible for registration pursuant to this subsection are validly registered when recorded by the county register. Electronic documents registered by county registers prior to the effective date of this act shall be considered validly registered.

Section 66-24-204.

(a) In this section, "paper document" means a document that is received by the county register in a form that is not electronic.

(b) A county register:

(1) Who implements any of the functions listed in this section shall do so in compliance with standards established by the information systems council created in Section 4-3-5501;

(2) May receive, index, store, archive and transmit electronic documents;

(3) May provide for access to, and for search and retrieval of, documents and information by electronic means;

(4) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index:

(5) May convert paper documents accepted for recording into electronic form;

(6) May convert into electronic form information recorded before the county register began to record electronic documents;

(7) May accept electronically any fee or tax that the county register is authorized to collect; and

(8) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

Section 66-24-205.

(a) The information systems council shall adopt standards to implement this part.

(b) To keep the standards and practices of county registers in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this act and to keep the technology used by county registers in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this act, the information systems council so far as is consistent with the purposes, policies, and provisions of this part, in adopting, amending, and repealing standards shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

Section 66-24-206. Nothing in this part, or any other provision of law, shall be construed to require county registers to receive a document electronically.

SECTION 4. If any provision of this act or the application of it to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. Section 3 of this act shall take effect July 1, 2007, the public welfare requiring it. All other sections of this act shall become effective upon becoming a law, the public welfare requiring it.